IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.472 OF 2005
IN
SUMMARY SUIT NO. 859 OF 2005

Hyatt Regency, Mumbai
a unit of Asian Hotels Ltd. ..Plaintiffs

Vs.

Mr.Dilip Kumar Gurnani & Anr. ..Defendants

Mr.Chhaya Shah for the plaintiffs

Mr.P.G.Bhatia for defendant no.2

CORAM : S.U.KAMDAR, J
DATED : 16TH JANUARY, 2006

P.C.:

1. The present suit is filed for the recovery of sum of Rs.1,22,047/- as due and payable in respect of hire charges which are liable to be paid by the defendants for the family function in plaintiffs Hotel in Mumbai. Plaintiffs has booked Regency Ballroom for the purpose of function of Sangeet. It seems that a small fire broke out due to the decorative fabric fell over a hot light. However, there was no damage of any nature caused to the plaintiffs herein. The learned counsel for the defendants contends that defendants are not liable to make payment of hire charges on the

ground that as the fire took place on the night of the function, all the guests went some of them even left without the dinner which has resulted in a damage to his reputation. The defence is bogus and without any substance. Even on an assumption that fire has caused any damage to the defendants still they are required to file their own suit for the same and establish such claim of damages. It is not open to the defendants to withheld the payment of the plaintiff which is admittedly due and payable by the defendants to the plaintiff in respect of hire charges. In the light of the aforesaid, I find no merits in the defence.

2. However, with a view to give an opportunity to the defendants to defend the suit, I direct the defendants to deposit a sum of Rs.1,20,000/- within 4 weeks failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited

then suit is to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from the date of deposit of the said amount. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.